



Plaintiff alleges that she was a civil servant, employed as a licensed practical nurse at PASSH. PASSH is identified as on one of six long term care facilities operated by the Department of Veterans Affairs (Id p 3) She alleges that on March 2, 2016 she was terminated in retaliation for her reporting of elder neglect and quality of care issues at the veterans home to the Pennsylvania Attorney General and the Pennsylvania Department of Health. She asserts that the stated reasons for her termination, allegations of workplace violence, are pretextual. (Id. p 4, 5,) She alleges that nearly every entity involved in her case, from that point forward, including the Civil Service Commission, the Workers Compensation Appeal Board and the State Board of Nursing, violated her rights in one way or another. As it is not relevant for purposes of this response, Defendants will not explore all of the individual allegations of misconduct by the various state entities/Defendants.

## II. ARGUMENT

To disqualify opposing counsel, the moving party must clearly show that continued representation by opposing counsel would be impermissible. *See Cohen v. Oasin*, 844 F.Supp. 1065, 1067 (E.D.Pa.1994). Disqualification is a harsh measure and is generally disfavored by the court. *See Commonwealth Ins. Co. v. Graphix Hot Line, Inc.*, 808 F.Supp. 1200, 1203 (E.D.Pa.1992). Moreover, the court has an obligation to prevent opposing parties from using motions to disqualify for tactical purposes. *See id.* “In determining whether disqualification is appropriate, the Court must also consider countervailing policies, such as permitting a litigant to retain his chosen counsel and enabling attorneys to practice without excessive restrictions.” *Jordan v. The Philadelphia Housing Auth.*, 337 F.Supp. 666, 672(E.D.Pa.2004). The court should only grant a motion to disqualify when it determines that disqualification is an appropriate means of enforcing the applicable disciplinary rule. *United States v. Miller*, 624 F.2d 1198, 1201 (3rd Cir.1980). As such, vague and unsupported allegations are not sufficient to meet this standard. *Buschmeier*

*v. G & G Investments, Inc.*, No. MISC. 02: 03MC00506, 2007 WL 4150408, at \*5 (W.D. Pa. Nov. 19, 2007)

Plaintiffs' instant motion is nothing but vague and unsupported allegations, and the motion clearly lacks the merit necessary to take the harsh step suggested by Plaintiff. For example, Plaintiff asserts a conflict of interest under Rule 1.7(a)(2) as the basis of her motion. She has not, however, submitted any facts that the undersigned, let alone any other attorney from the Pennsylvania Office of Attorney General has ever represented her, or been provided confidential information from her, that would create a conflict or otherwise cause her to be at a disadvantage in these proceedings. She has indicated that she had made a report of alleged elder abuse to certain agents of the Attorney General's Office, but has not provided anything further to even remotely suggest the undersigned was involved in that investigation (which he was not) or otherwise garnered confidential information. In her efforts to pull herself within the scope of Rule 1.7(a)(2), Plaintiff appears to assert that she is a third person with some sort relationship with the Attorney General's office. In support of that, she reminds the court that she asserts that she reported elder abuse, allegedly being committed on the residents at the veterans' home. However, making such a report does not create any sort of a confidential attorney client relationship. There simply is no conflict.

Lacking a true conflict of interest to argue, she next proceeds to slander the undersigned by asserting that he has a personal interest in obstructing justice and has breached his duty as a Deputy Attorney General. Again, there are no facts that support this assertion, merely the Plaintiff making the allegation. A review of the docket will show that the undersigned has properly performed his duties, and has, in the spirit of cooperation, drafted and filed the Report of Rule 26 (f) planning meeting,(ECF 24), waived formal service of multiple Defendants (ECF

13), and consented to Plaintiffs' motion to file a second amended complaint (ECF 31). In response to this civility, Counsel is subjected to allegations of obstruction of justice, and criminal behavior.

Plaintiff has not established any basis for disqualification, and her motion should be denied.

Respectfully submitted,

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Date: October 19, 2017

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this response to motion was served upon the Plaintiff on October 19, 2017, by first class US mail to her record address:

3342 west 12<sup>th</sup> street, Erie PA 16505.

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